



COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

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LOS ANGELES, CALIFORNIA 90012-2713

July 21, 2003

LLOYD W. PELLMAN

County Counsel

TDD

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TELEPHONE

TELECOPIER

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Crystal B., et al. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 216 540

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$1,000,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Children and Family Services.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report is being transmitted to you under separate cover by the Department of Children and Family Services.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fsl

Enclosure

MEMORANDUM

July 10, 2003

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JOHN J. COLLINS
Collins, Collins, Muir and Stewart

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Crystal B., et al. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 216540

DATE OF
INCIDENT: 1991 through 1998

AUTHORITY
REQUESTED: \$1,000,000

COUNTY
DEPARTMENT: Department of Children and Family Services

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☐ Recommend to Board of
Supervisors for Approval

ROCKY A. ARMFIELD Chief Administrative Office

LLOYD W. PELLMAN County Counsel

MARIA M. OMS Auditor-Controller

on _____, 2003

SUMMARY

This is a recommendation to settle for \$1,000,000, a lawsuit filed by Crystal B., Steven G., Anita S., Brenda P., Valerie R., and Emily C., who allege that they were physically and emotionally abused, and subjected to general neglect, in the same foster home while under the supervision of the Department of Children and Family Services ("DCFS").

LEGAL PRINCIPLES

A public entity and its employees that supervise dependent children of the Juvenile Court may be held liable for injuries to those children if the employees fail to discharge a duty that is mandated by a statute, the statute is intended to protect against the kind of risk of injury suffered by the child, and the breach of the mandatory duty is a proximate cause of the injury.

SUMMARY OF FACTS

At various times from June 26, 1991 to January 22, 1998, Crystal B., currently age 21, Steven G., age 16, Anita S., age 14, Brenda P., age 20, Valerie R., age 22, and Emily C., age 16, were dependents of the Juvenile Court and placed in the foster home of Sandra Rodriguez. During that time period, DCFS received nine child abuse referrals regarding the children in Sandra Rodriguez's home. The allegations in the referrals ranged from physical abuse, sexual abuse, severe neglect, and insect infestation in the home.

Some, but not all, of the referrals were investigated by DCFS's Out Of Home Care Evaluation Unit (OHCEU), but none of the allegations against Sandra Rodriguez were substantiated. In October 1998, the Community Care Licensing (CCL) Division of the State of California instituted a license revocation proceeding against Sandra Rodriguez. When OHCEU found out about the revocation proceeding, it opened another investigation into the previous referrals.

OHCEU's investigation concluded that four of the previous child abuse referrals should have been founded, and two others required further investigation. In December 1998, DCFS removed the remaining children from Sandra Rodriguez's home, and her foster home license was subsequently revoked by the State.

Crystal B., Steven G., Anita S., Brenda P., Valerie R., and Emily C. contend that had DCFS conducted thorough investigations into the early child abuse referrals, the injuries they suffered would not have occurred or would have

been minimized. They also contend that the Children's Social Workers did not properly supervise the children's placement in the foster home by making all of their mandatory face to face visits with the children.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Crystal B.

Medical/psychological expenses	\$ 15,000
Future expenses	\$ 100,000
Emotional Distress	\$ 250,000

Steven G.

Medical/psychological expenses	\$ 115,000
Future expenses	\$ 100,000
Emotional Distress	\$ 250,000

Anita S.

Medical/psychological expenses	\$ 40,000
Future expenses	\$ 100,000
Emotional Distress	\$ 250,000

Brenda P.

Medical/psychological expenses	\$ 15,000
Future expenses	\$ 100,000
Emotional Distress	\$ 250,000

Valerie R.

Medical/psychological expenses	\$ 150,000
Future expenses	\$ 100,000
Emotional Distress	\$ 250,000

Emily C.

Emotional Distress	<u>\$ 100,000</u>
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Total **\$2,185,000**

The proposed settlement calls for the County to pay to Crystal B., Steven G., Anita S., Brenda P., Valerie R., and Emily C. a total \$1,000,000 for all claims for damages, costs, and attorney's fees.

STATUS OF CASE

The named defendants in the lawsuit are the County, 32 DCFS employees, including its former director, Peter Digre, foster mother Sandra Rodriguez, Children's Home Society – the Foster Family Agency that certified Sandra Rodriguez' foster home, Christine Conte – a social worker with Children's Home Society, and Dependency Court Legal Services – the attorneys for the plaintiffs in the Dependency Court. We contacted and interviewed the 32 DCFS employees who were named as defendants, and negotiated dismissals for all of them except for Peter Digre and one other employee.

Separate counsel was appointed for Peter Digre as a result of a conflict of interest existing between him and the County. Separate counsel was also appointed for another employee because of a conflict of interest.

Early in the litigation, we challenged the plaintiffs' right to bring their lawsuit based upon the fact that they failed to timely file claims with the County. The Superior Court ruled that the plaintiffs' claims were timely, and in response, we filed a writ petition in the Court of Appeal. We were successful as to three of the plaintiffs, which initially prohibited them from proceeding with the lawsuit. However, the Court of Appeal subsequently reversed itself, and all of the plaintiffs were allowed to pursue the case.

Discovery in this matter has been extensive. To date, eleven people were deposed lasting a total of 25 days. Many of the depositions have been of County employees, who had to be prepared for their depositions. In addition, our attorneys have had to respond to approximately nine sets of written discovery from each of the six plaintiffs, and have also propounded written discovery to the plaintiffs. The plaintiffs' health records were subpoenaed from various health care providers, many of whom objected to the subpoenas, requiring additional time and effort to secure the records.

The plaintiffs have also been trying to obtain copies of audio taped interviews from the Auditor-Controller's file regarding an investigation into related allegations. Our attorneys refused to produce the taped interviews on the basis that the file is privileged and confidential and should not be disclosed. The trial court subsequently ordered that the County produce the tapes, and an appeal was taken.

Another problem arose early in the litigation when it was discovered that the DCFS files as to three of the plaintiffs had been lost. Our attorneys have been trying to establish through mileage logs and other sources

that the social workers involved in the case fulfilled their mandatory duties, such as monthly face to face visits with the children.

Because of the complexity of the litigation, and the fact that we are paying for three attorneys, our attorney's fees are substantial. Expenses incurred by the County in defense of this matter are attorney's fees of \$490,073 and \$67,719 in costs.

The trial court proceedings have been suspended pending consideration of the proposed settlement.

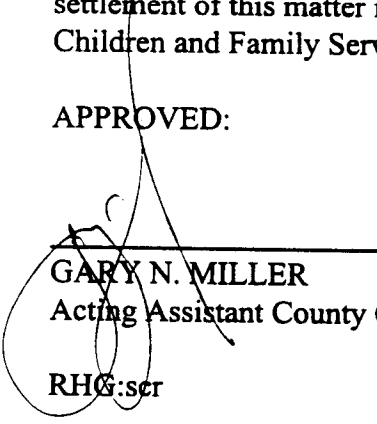
EVALUATION

The evidence in this case is in dispute. At trial, DCFS would contend through the testimony of its social workers and the documents contained in its case files that DCFS fulfilled all of its mandatory duties with respect to each of the plaintiffs. However, the fact that in 1998, DCFS conducted a subsequent investigation into all of the earlier child abuse referrals, and concluded that a number of them were founded, may lead a jury to believe that the initial investigations were flawed. Further, it will be difficult to establish that DCFS made its mandatory face to face visits with each of the children over the years, as three of the children's case files have been lost.

In addition, Crystal B., Steven G., Anita S., Brenda P., Valerie R., and Emily C. will make sympathetic witnesses on their own behalf. A reasonable settlement at this time will avoid further litigation costs and a possible jury award well in excess of the proposed settlement.

We join with our third-party administrator, Carl Warren and Company and our private counsel, Collins, Collins, Muir & Stewart, in recommending a settlement of this matter in the amount of \$1,000,000. The Department of Children and Family Services concurs in this settlement recommendation.

APPROVED:



GARY N. MILLER
Acting Assistant County Counsel

RHG:scr